



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0069; Notice 1]

Hercules Tire & Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Hercules Tire & Rubber Company, (Hercules), has determined that certain Ironman iMOVE PT specialty trailer tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Hercules filed an original noncompliance report dated May 10, 2022, and amended the report on May 12, 2022. Hercules petitioned NHTSA on June 21, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Hercules's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov/> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655-0547.

SUPPLEMENTARY INFORMATION:

I. Overview: Hercules determined that certain Ironman iMOVE PT specialty trailer tires do not fully comply with paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139).

Hercules filed an original noncompliance report dated May 10, 2022, and amended the report on May 12, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Hercules subsequently petitioned NHTSA on June 21, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Hercules's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Tires Involved: Approximately 555 Ironman iMOVE PT specialty trailer tires, manufactured between August 14, 2021, and August 20, 2021, are potentially involved:

III. Noncompliance: Hercules explains that the subject tires are labeled with a tire identification number (TIN) that does not contain the correct date code, as stated by 49 CFR 574.5(b)(3), and therefore does not comply with paragraph S5.5.1(b) of FMVSS No. 139. Specifically, the date code as stated in the TIN on the subject tires is "3231" when it should state "3321."

IV. Rule Requirements: Paragraph S5.5.1(b) of FMVSS No. 139 and 49 CFR 574.5(b)(3) include the requirements relevant to this petition. Each tire (manufactured on or after September 1, 2009) must be labeled with the TIN, as required by 49 CFR Part 574, on the intended outboard

sidewall of the tire. The date code, consisting of four numerical symbols, is the final group of the TIN and must identify the tire's week and year of manufacture. The first and second symbols of the date code must identify the week of the year by using "01" for the first full calendar week in each year, "02" for the second full calendar week, and so on. The third and fourth symbols of the date code must identify the last two digits of the year of manufacture.

V. Summary of Hercules's Petition: The following views and arguments presented in this section, "V. Summary of Hercules's Petition," are the views and arguments provided by Hercules. They have not been evaluated by the Agency and do not reflect the views of the Agency. Hercules describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Hercules explains that two of the numerical symbols used in the TIN were inadvertently transposed and incorrectly states the date code "3231." Hercules says that the tires should have been marked "3321," to indicate that "the tires were manufactured in calendar week 33 of calendar year 2021." Other than the incorrect date code, Hercules states that the TIN is correct and the subject tires "otherwise conform to the performance requirements applicable to specialty trailer tires."

Hercules claims that the subject noncompliance "will not confuse or mislead the consumer," and is similar to prior inconsequentiality petitions that NHTSA has granted. Although the numeric symbols representing the date code in the TIN were transposed, Hercules believes the subject noncompliance causes "no increased risk to motor vehicle safety" because the incorrect date code represents a future year of production "and is so far into the future to be implausible."

Hercules contends that NHTSA has stated that its main concern is the potential safety risk to consumers using an aged tire that is "beyond the manufacturer's recommended service life, regardless of the condition of the tire." Therefore, Hercules believes that a consumer using the incorrect date code listed on the subject tires would determine that the year of production

indicated by the date code is 1931 or 2031, which would “cause a rational consumer to question the accuracy of the year of manufacture.” Furthermore, Hercules says that the guidance provided on NHTSA’s website advises that “tires should be replaced within 6 to 10 years regardless of treadwear.” For these reasons, Hercules says the consumer would not “be misled into believing that the tire has a substantial service life ahead of it.” Hercules also states that “even if a dealer were to store the subject tires for several years before selling them, there is no risk of misleading the consumer about the age of the tire.”

In the event of a recall, Hercules states that the subject tires can be identified through its internal database using the TIN and “any consumer communication could include the TIN as it is listed on the tire sidewall so that consumers could check the recall notification against the tire sidewall for verification purposes.” Hercules says that upon registration of the subject tires, it “will continue to be able to isolate and identify the affected tires in its internal systems as having actually been produced in calendar week 33, calendar year 2021.”

According to Hercules, the following prior petitions NHTSA has granted describe noncompliances that are similar to the subject petition, and therefore, support Hercules’s contention that its petition should be granted:

- Cooper Tire & Rubber Company, 86 FR 47726 (August 26, 2021).
- Bridgestone/Firestone, Inc., Grant of Petition, 71 FR 4396 (January 26, 2006)
- Bridgestone/Firestone, Inc., Grant of Petition, 66 FR 45076 (August 27, 2001)
- Bridgestone/Firestone Grant of Inconsequentiality Petition, 64 FR 20,090 (May 28, 1999)
- Cooper Tire & Rubber Co., Grant of Inconsequentiality Petition, 68 FR 16,115 (April 2, 2003)
- See Bridgestone/Firestone North America, LLC, Grant of Inconsequentiality Petition, 71 FR 4396 (January 26, 2006)

Hercules concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that Hercules no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Hercules notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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